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International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-eighth session

Summary record (partial)* of the 381st meeting
Held at the Palais Wilson, Geneva, on Wednesday, 11 April 2018, at 3 p.m.

Chair: Mr. Tall

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* No summary record was prepared for the rest of the meeting.

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The discussion covered in the summary record began at 3.25 p.m.

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Guyana (CMW/C/GUY/QPR/1)

1. *At the invitation of the Chair, the delegation of Guyana took places at the Committee table.*

2. **Mr. Ford** (Guyana) said that Guyana was committed to ensuring that migrants and members of their families enjoyed the same human rights as citizens, including in health care, education, employment and access to justice. Legislation upholding the right to a fair trial, for example, established that non-nationals should have legal representation and be permitted to communicate in their own language.

3. While the Convention did not carry the same force as national law in Guyana, it did have a persuasive — if not directly enforceable — authority. Much of national legislation, including in the labour and children's rights spheres, was in line with the Convention's provisions. Legislation and enforcement in the areas of children's rights and human trafficking in particular had been significantly strengthened in the past five years. Legislation that addressed migrant-specific issues included the Status of Aliens Act, which protected the property rights of non-nationals. Furthermore, legal provisions and procedures for financial transfers were very migrant-friendly.

4. Guyana hosted the regional office of the International Organization for Migration (IOM) for the Caribbean and it had been very proactive in its promotion of the global compact for safe, orderly and regular migration. Along with other States, it was set to adopt that important policy document at the intergovernmental conference due to take place in December 2018. Guyana was working with IOM and several other international organizations to address the needs both of migrants and of returning migrants, with the Ministry of Foreign Affairs and the Guyana Revenue Authority having recently launched a programme specifically for assisting returning migrants. The country's membership of the Caribbean Community (CARICOM) provided further protection for the rights of migrants across the Community.

5. As a relatively recent party to the Convention, Guyana was still in the early stages of addressing migrant and migration issues. It recognized that the relevant institutional and budgetary frameworks required considerable strengthening, but it stood ready to work with the Committee to enhance its understanding of the issues and to build its capacity and resources. It would continue working to improve statistical information on migrants and migration, including, in particular, the availability of data disaggregated by gender, age, nationality, visa status and participation in the education system.

6. In view of the many different government departments that had a role to play in implementing the Convention, and in the light of lessons learned from preparation of the initial report, Guyana was acutely aware of the need to establish an inter-agency task force to ensure fuller and more effective implementation of all Convention provisions going forward. Plans to establish a national human rights institution were also on the table.

7. **Ms. Landázuri de Mora** (Country Rapporteur), noting that national laws were not fully compatible with international laws on migration and in some cases used obsolete terms and concepts, said that she wished to know how the State party was planning to achieve full alignment. She would also welcome an update on progress in developing a normative framework that clearly defined the roles and responsibilities of each institution involved in protecting migrants' rights and that established strict human rights obligations for public officials, particularly those working in border areas. Tighter controls were also needed to ensure that migrant workers enjoyed decent conditions of work and received a fair wage.

8. With regard to the State party's acknowledgement of the need for institutional capacity-building, she wished to stress that it was not more institutions and more organizations that were expected but rather a guarantee that existing institutions were sufficiently robust and strongly focused on human rights. In that connection, details of all

institutions with roles and responsibilities in the area of migration, and what they were doing to address the respective challenges, would be helpful in order for the Committee's concluding recommendations to be better targeted. She would also like to know what inter-institutional coordination mechanisms were in place.

9. She would appreciate receiving assurances from the State party that fines which could ultimately lead to detention would no longer be imposed on migrants in an irregular situation, as well as information about the new procedures and policies adopted for migrants wishing to formalize their status. On a more general note, she wondered whether the Convention's provisions were specifically reflected in public sector policies and programmes, given that they were not yet fully integrated into national law.

10. Commending the State party for the support it offered to Venezuelan nationals seeking protection and better living conditions in Guyana, she invited the delegation to provide details of specific assistance programmes for Venezuelans, especially Venezuelan women and children, many of whom reportedly risked attack by criminal gangs operating in border areas. With that situation in mind, she would like to know the reasons for the police and armed forces' presence in border areas and the role, if any, they assumed in the control of migratory flows.

11. **Mr. Ünver** (Country Rapporteur) said that the Committee commended the State party for its efforts on migration and for ratifying the most important international legal instruments in that sphere. However, the fact that international human rights instruments did not carry the same force as national legislation and that the Convention could not be implemented directly was problematic, and it raised the question of whether the State party encountered difficulties in safeguarding equality before the courts. Did judges' inability to directly implement the provisions of the Convention constitute an obstacle to equal treatment and the protection of rights?

12. In view of the unfortunate worldwide trend of populism and increased animosity towards migrant workers in receiving countries, he wished to know whether the Government had taken specific measures to safeguard migrants' interests, for example, by tackling xenophobia, preventing discrimination and promoting social cohesion and the coexistence of migrants and nationals. The delegation might also explain how the State party protected the rights of Guyanese nationals living abroad who required support and, especially, consular assistance from their Government. Lastly, he enquired as to the State party's position on the criminalization of migration and the arbitrary detention of migrants, which were serious problems at the global level, and on access to social security and education, all of which were issues that should be approached in keeping with the spirit of the Convention.

13. **Mr. Kariyawasam** said that Guyana was an example of a sending and receiving country: on the one hand, it received migrants from the Bolivarian Republic of Venezuela and elsewhere; on the other, 37 per cent of Guyanese worked abroad. Accordingly, the Committee would welcome information on measures taken by the Government to manage the voluntary return, readmission and reintegration of Guyanese nationals, which constituted a key element of its migration policy. While the Remigrant Programme administered by the Ministry of Foreign Affairs and the Guyana Revenue Authority appeared to be a positive initiative that provided entitlements for returning migrants, including the duty-free import of goods, he had been informed that the authorities granted such entitlements on a case-by-case basis and that not all returning migrants were exempted from duties on household effects. Therefore, he wished to know more about how the Government administered the Programme and whether it was transparent, egalitarian and effective in providing entitlements to returning individuals. He also wished to know what readmission agreements the Government had signed with other countries and how such agreements worked.

14. **Mr. El Jamri** said that he would appreciate further details about the mobilization and coordination of different government departments for the implementation of the Convention and the preparation of the initial report. The delegation might give concrete examples of how the Convention had been implemented, such as initiatives for the training of law enforcement officers or court cases in which judges had referred to the Convention.

Moreover, he was curious to know how the State party complied with its obligation under the Convention to ensure that migrants were informed of and able to exercise their rights.

15. Concerning the consultation organized by the Ministry of Foreign Affairs in the context of the negotiation of the global compact for safe, orderly and regular migration, he wondered what topics had been addressed and whether any other Latin American and Caribbean countries had participated in the exercise. Had the Government taken that opportunity to promote the Convention and to promote greater harmonization among regional policies on the rights of migrant workers? Lastly, he wondered whether Guyana had a widely available social security system that provided benefits to migrants and whether such benefits were portable in the event that the migrants chose not to remain in the country on a permanent basis.

16. **Mr. Botero Navarro** said that a serious and complex situation had arisen in respect of the migration of hundreds of thousands of people from the Bolivarian Republic of Venezuela. The Office of the United Nations High Commissioner for Refugees had recently published a guidance note on the outflow of Venezuelans and, in March 2018, the Inter-American Commission on Human Rights had adopted a resolution on the forced migration of Venezuelans, urging neighbouring countries to provide international protection to Venezuelan nationals who requested it. According to the Commission, the migration was driven by various forms of persecution and a severe humanitarian crisis that had significantly reduced access to food, medicine and medical treatment. Given that Guyana bordered the Bolivarian Republic of Venezuela, the Committee would welcome information regarding the number of arrivals of Venezuelans on Guyanese territory and the measures that the Government envisaged or had adopted to provide protection for such persons, such as the granting of refugee status or temporary residence permits.

17. **Mr. Oumaria** said that the State party's ratification of the Convention demonstrated its clear political resolve to protect migrants. However, considering that international conventions did not carry the same legal weight as national laws in the State party, it was important for the country to reform its legislative arsenal by transposing those conventions into domestic law. The Government might commence such a task by identifying the domestic provisions that needed to be brought into conformity with the Convention.

18. In the light of reports that children were working in mines and were exposed to substances such as mercury, he wished to know whether the State party had established offices or labour inspectorates that monitored and ensured the protection of migrant workers' rights — including social rights — and prevented child labour and other forms of exploitation.

19. As Guyana was a country of origin, transit and destination, he would welcome statistical information on the economic sectors in which migrant workers were engaged, on their working conditions and on the extent of their access to health, education and housing. Were they able to send money and belongings to their countries of origin?

20. Considering that national human rights institutions were an important mechanism for the implementation of rights, especially the rights of migrant workers, he recommended that the State party should implement its plan to establish such an institution as quickly as possible, while ensuring that it conformed to international standards. In that context, he wondered whether civil society was actively involved in ensuring the promotion and protection of migrant workers' rights and, if not, whether the Government might engage in awareness-raising efforts to support the development of civil society and thus help reinforce the framework for rights protection.

21. **Mr. Haque** said that he was interested to know more about the dynamics of migration in Guyana, particularly the reasons that led people to migrate. He wished to know what systems were in place to regulate migratory movements and how the Government planned to meet the difficult challenge of balancing immigration and emigration. The Committee would welcome details on how Guyana and its partners in Latin America and the Caribbean approached the negotiations on the global compact for safe, orderly and regular migration and the global compact on refugees, which were in the process of being drafted. Had the Government, in its deliberations, discussed the interface between the two

compacts and how they dealt with the issue of rights, in view of receiving countries' sensitivities to the Convention?

22. **Ms. Ladjel** said that she would welcome further information on the ways in which civil society contributed to the work of institutions and how its contributions were assessed.

23. **Ms. Dzumhur**, noting that the majority of migrants from Guyana moved to the United States of America or Canada, said that she would welcome further information on the staff employed at the Guyanese consulates in those countries and on the number of Guyanese citizens that returned to Guyana after living there. She asked whether bilateral agreements had been established between Guyana and the United States and Canada, how the Government responded to reports that Guyanese nationals were being held in administrative detention and how such information reached it.

24. The Committee wished to know how many women were employed in consular offices and institutions operating in the area of migration, whether it was the case that the majority of Guyanese migrants to other countries were women and what additional measures had been established to protect migrant workers' children.

25. She asked whether children born to Guyanese nationals in destination countries were entitled to acquire Guyanese citizenship, how Guyanese citizenship could be acquired in countries where Guyana had no consular representation and how potential Guyanese citizens were informed of the procedure for acquiring citizenship. It would be interesting to learn what procedures were in place for registering foreign nationals who resided in Guyana.

26. She wished to know whether migrant smuggling was more or less prevalent than trafficking in persons, whether corruption was a significant problem, what measures were being taken to reduce corruption and whether corruption was a cause of migration.

27. Lastly, she asked what measures were being taken to ensure that Guyanese nationals living abroad were entitled to vote in Guyanese elections and how many such persons had registered to vote.

28. **Mr. Frasheri** said that he wished to know what mechanisms were in place to ensure that private sector companies and actors, including those operating in the mining sector, complied with the Convention and what bilateral or regional agreements Guyana had established in the area of migration.

29. **Mr. Taghi-Zada** said that he would welcome further disaggregated data on the number of migrants entering, leaving and passing through the State party and the destination countries to which Guyanese citizens migrated. He wished to know what measures were taken to assess the results achieved by any bilateral and regional agreements on migration that Guyana had entered into with other States.

30. **Mr. Núñez-Melgar Maguiña** said that he wished to know what measures were being taken to provide Guyanese nationals abroad with legal assistance in labour and migration-related matters through the consular system, how many Guyanese consulates there were in other countries and whether the staff employed at those consulates were career diplomats or employees appointed by the State.

31. He asked whether any programmes were in place to ensure that remittances were channelled towards credit or microcredit schemes intended to benefit migrants' families and whether the crime of trafficking in persons had been defined in the State party's Criminal Code.

32. The Committee would welcome further information on the State party's participation in regional consultative processes relating to migration, such as the South American Conference on Migration.

33. Lastly, he asked whether the State party had entered into any bilateral agreements relating to the area of social benefits and whether such benefits were made available to foreign migrants working in Guyana.

34. **Ms. Landázuri de Mora**, noting that a large number of Guyanese migrants had successfully settled in Canada and integrated into the labour market there, said that she

would welcome further information on the manner in which that process had taken place as it could serve as a positive example for other States.

The meeting was suspended at 4.40 p.m. and resumed at 5.15 p.m.

35. **Mr. Ford** (Guyana) said that Guyana was well known across the Caribbean region and beyond for its hospitality as a nation and its welcoming attitude towards persons from other parts of the world. Its openness to migrants was reflected in a number of national symbols, including its coat of arms. Following the abolition of slavery, many migrants from various Caribbean islands had moved to Guyana, settled there and established families and businesses. Between 1848 and 1915, large numbers of Indian nationals had arrived in Guyana as indentured labourers. Persons of Indian descent currently comprised the largest single ethnic group, followed by persons of African descent.

36. The foregoing notwithstanding, the Government acknowledged that it was necessary to update the country's legislation on migration, much of which dated from the British colonial period.

37. As Guyana was a small country, the total number of migrants entering it was relatively low: some 1,170 work visas had been issued in 2015, of which nearly 30 per cent to Chinese nationals and 10 per cent to Indian nationals. Other work visa recipients included migrants from Peru, Guatemala and Nigeria. He was not aware of any particular influx from the Bolivarian Republic of Venezuela, and most Venezuelans who did travel to Guyana were seeking medical treatment and not employment. Nevertheless, the Minister for Foreign Affairs had made a statement directed at State institutions such as the police and immigration authorities and at the school and health systems that Venezuelans in Guyana should receive the same support as other foreign nationals. A diaspora unit had recently been established under the Ministry of Foreign Affairs, and the Ministry of Citizenship had been set up to handle the cases of Guyanese returnees and foreign migrants in Guyana. With regard to remittances, the system for transferring such payments had become very sophisticated.

38. Significant efforts had been made to raise awareness about the rights of migrants and how to protect migrants who had been victims of exploitation or trafficking in Guyana, including in the vast hinterland and mining areas. Specifically, under the National Plan of Action for the Prevention of and Response to Trafficking in Persons, which covered all migrants as well, irrespective of sex or age, informational posters had been disseminated, a hotline for trafficking victims had been set up and brochures had been distributed in police stations and hospitals. In addition, a range of training courses had been designed for police and immigration officers and awareness-raising programmes were being run in secondary schools and indigenous communities. Lastly, so-called "area sweeps" of places that employed foreign workers were conducted by teams composed of the police, the military and the Ministry of Social Protection to monitor the treatment of migrants.

39. Unfortunately, Guyana had one of the world's highest rates of brain drain due to the country's small size and limited opportunities. It had only a few embassies and consulates around the world, and they were located in States that had the highest concentrations of Guyanese. As a member of CARICOM and of the Community of Latin American and Caribbean States (CELAC), Guyana was involved in hemispheric cooperation in a number of areas. A few civil society organizations had been involved in the preparation of the report, and the Guyana Human Rights Association was an active spokesperson for a number of specific groups.

40. **Mr. Ünver** commended the State party on its efforts to protect both foreign migrants in Guyana and Guyanese migrants abroad.

41. **Ms. Landázuri de Mora** said that she appreciated the State party's positive approach to the dialogue, which she was confident would help Guyana to better address some of its challenges in the area of migration.

The discussion covered in the summary record ended at 5.50 p.m.